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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,174	07/26/2001	Jochen Burgdorf	AP9974/64098-878	7113

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EXAMINER

BURCH, MELODY M

ART UNIT PAPER NUMBER

3683

DATE MAILED: 01/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

Office Action Summary

Application No.

09/916,174

Applicant(s)

BURGDORF ET AL.

Examiner

Melody M. Burch

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) [X] Responsive to communication(s) filed on 30 July 2002.
2a) [X] This action is FINAL. 2b) [] This action is non-final.
3) [] Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) [X] Claim(s) 19-43 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) [] Claim(s) _____ is/are allowed.
6) [X] Claim(s) 19-43 is/are rejected.
7) [] Claim(s) _____ is/are objected to.
8) [] Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) [X] The specification is objected to by the Examiner.
10) [X] The drawing(s) filed on 26 July 2001 is/are: a) [] accepted or b) [X] objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
11) [] The proposed drawing correction filed on _____ is: a) [] approved b) [] disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
12) [] The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) [X] Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) [X] All b) [] Some * c) [] None of:
1. [X] Certified copies of the priority documents have been received.
2. [] Certified copies of the priority documents have been received in Application No. _____.
3. [] Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
14) [] Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) [] The translation of the foreign language provisional application has been received.
15) [] Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) [X] Notice of References Cited (PTO-892)
2) [] Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) [] Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
4) [] Interview Summary (PTO-413) Paper No(s) _____.
5) [] Notice of Informal Patent Application (PTO-152)
6) [] Other:

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the second brake lining detachably connected to the actuating device claimed in claim 19 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification lacks proper antecedent basis for the following claimed terms: "matingly configured fastening portion" as claimed in claim 29, "fastening portion bore" as claimed in claim 32, and "leg spring" as claimed in claim 37.

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Claim Objections

4. Claim 33 is objected to because of the following informalities: "a circumferential or a radially accurate" should be changed to --a circumferentially or a radially accurate--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 34-36, 41, and 42 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification fails to provide support for casting fabrication as claimed in claims 34, 41, and 42, and fails to provide support for the limitation of a spiral type wound tension spring or a compression spring as claimed in claims 35 and 36, respectively.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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8. Claims 19-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are replete with 112 issues including but not limited to:

Re: claim 19. Claim 19 recites the limitation "the at least one brake lining" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Re: claim 19. The phrase "a first brake lining" in line 5 is indefinite. It is unclear to the Examiner whether the first brake lining is intended to be the same or different from the at least one brake lining claimed in line 4.

Re: claims 19 and 39-43. The phrase "the actuating device" in line 5 is indefinite. Applicant initially claims in line 3 "at least one actuating device" which includes the possibility of more than one actuating device. Examiner recommends using such language as --said at least one actuating device including one actuating device--.

Re: claim 19. The phrase "between the at least one actuating device" in line 9 from the bottom is indefinite. If the at least one actuating device includes only one actuating device, the phrase "between the at least one actuating device" becomes unclear.

Re: claim 19. Claim 19 recites the limitation "the shackle" in line 6 from the bottom. There is insufficient antecedent basis for this limitation in the claim.

Re: claim 19. Claim 19 recites the limitation "the frictional lining" in line 5 from the bottom. There is insufficient antecedent basis for this limitation in the claim.

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Re: claims 28 and 30. The phrase "the grooved-shaped indentations" in line 5 is indefinite. Applicant initially claims in claim 27 "at least one groove-shaped indentation" which includes the possibility of only one indentation. Examiner recommends using such language as --said at least one groove-shaped indentation including two groove-shaped indentations--, for example. The same rejection holds true for the two matignly configured fastening portions claimed in claim 30.

Re: claim 35. The phrase "spiral-type" in line 2 fails to clearly define the metes and bounds of the claim recitation.

Re: claims 20-27, 29, and 31-38. Claims 20-27, 29, and 31-38 are indefinite due to their dependency from claim 19.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 19, 20, 23-26, 27, 29, 37, 38, and 40 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 3722634 to Ogasawara et al.

Re: claims 19, 23-26, 29, 37, 38, and 40. Ogasawara et al. show in figures 2-4 a spot-type disc brake assembly comprising: a brake housing 30, at least one actuating device 70 arranged in the brake housing to apply an actuating force to the at least one brake lining 50, a first brake lining 50 (left) detachably connected to the actuating

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device, a second brake lining 50 (right) detachably connected to the actuating device and anchored axially on the brake housing, and a spring assembly 34 having a design that actively lifts and provides a clearance for the first brake lining wherein the spring assembly is arranged with respect to the central plane of the brake housing between the at least one actuating device, wherein the spring assembly includes: a first leg portion shown in the area of element 102 which is detachably hooked at a shackle portion 33 of the first brake lining, wherein the shackle is shaped on a side of the first brake lining opposing the frictional lining and being secured to the back side of a carrier plate 51 having a front side that carries a frictional lining in order to provide a point of force that radially overlaps a spring force that is exerted on a contact area of the first brake lining for actively lifting the actuating device after a braking application.

Re: claim 20. Ogasawara et al. show in figure 3 the spring assembly that abuts, in a protected fashion, on the brake housing via element 33 in an indentation shown in the area of the line associated with element 102 between the actuating devices (left and right pistons).

Re: claim 27. Ogasawara et al. show the limitation of the brake housing including at least one grooved-shaped indentation shown surrounding element 73 in figure 3.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara et al. in view of US Patent 4881623 to Kondo. Ogasawara et al. show in figure 3 grooved-shaped indentations shown surrounding elements 73 and 75 but do not disclose the limitation of the indentations being formed by casting. Kondo teaches in col. 4 lines 19-21 the limitation of grooved-shaped indentations being formed by casting. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the forming of the grooved-shaped indentations of Ogasawara et al. to have been by casting, as taught by Kondo, in order to provide a well-known means of fabricating the portions of the caliper of the brake device depending on manufacturing requirements.

13. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara et al. in view of US Patent 4444296 to Marianu. Marianu teaches in figure 1 the use of a spiral-type tension spring used in a spot-type disc brake. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the spring of Ogasawara et al. to have included a spiral-type tension spring, as taught by Marianu, in order to provide a means of biasing the friction lining and carrier plate.

14. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara et al. in view of US Patent 4537288 to Stoka. Stoka teaches in col. 2 lines 9-10 the use of a compression spring used in a spot-type disc brake. It would have been obvious to one of ordinary skill in the art at the time the invention was made to

have modified the spring of Ogaswara et al. to have included a compression spring, as taught by Stoka, in order to provide a means of biasing the friction lining and carrier plate.

Allowable Subject Matter

15. Claims 39 and 41-43 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, first and/or second paragraph, set forth in this Office action.

16. Claims 21, 22, and 30-34 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, first and/or second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

17. Applicant's arguments with respect to claims 19-43 have been considered but are moot in view of the new ground(s) of rejection. Examiner notes that the corrections to the paragraph beginning "DE 3130185 A1 discloses a disc brake..." on pg. 1 of the specification has not been entered since Applicant refers to the paragraph as [0001] instead of [0002].

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents: Re. 31794 to Burgdorf et al., 5251727 to Loeffler et al., 5704452 to Maligne, 6318514 to Hinkens et al., 6179095 to Weiler et al., 5687817 to Kobayashi et al., 5310024 to Takagi, 5249647 to Kobayashi et al., and foreign

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references: DE-3608577, EP-04698310, GB-2074261, and GB-2147673 teach similar spring assemblies for brake linings.

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

mmb 1/3/03
mmb
January 3, 2003

M. C. Graham
1/8/2003

**MATTHEW C. GRAHAM
PRIMARY EXAMINER
GROUP 310**